IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/08/2002

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

W.P.NO.10211 OF 2001
and
W.M.P.No.33161,14714 of 2001
and
WVMP.No.518 of 2002

1. G. Arun Shankar
2. R. Jai Ganesh
3. A. Prakash
4. N. Karthikeyan .. Petitioners

-Vs-

1. Pondicherry University,
rep. by its Registrar,
R. Venkataraman Nagar,
Kalapet,
Pondicherry 605 014.

2. The Controller of Examinations
Pondicherry University,
Pondicherry 605 104.

3. The Deputy Registrar (ACA.II),
Pondicherry University,
Kalapet, Pondicherry 605 014.

4. Bharathiyar College of Engineering
and Technology, rep. by its
Principal, Mandapathur Village,
Thiruvettakudi, Karaikkal 609 609 ... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr. Doraisami
Senior Counsl for
Mrs.Muthumani Doraisami &
Mr. Kandavadivel Doraisami

For Respondents 1-3: Mrs.G. Thilakavathi
For Respondent-4 : No Appearance

:J U D G M E N T

This writ petition has been filed to quash the order of cancellation made by the third respondent dated 11.5.2001 and for a direction to permit the petitioners to complete their B.Tech course.
2. Petitioners were admitted to the I year B.Tech Course during the academic year 2000-2001 in the fourth respondent college, which is affiliated to the Pondicherry University, the respondent No.1. As per the prospectus, a candidate seeking admission to I Year B.Tech Course should have passed the qualifying HSC examination with a minimum of 50% marks in aggregate in the subjects mentioned in the prospectus. The prospectus further stipulates that the candidate should have passed the qualifying examination in maximum of two attempts (three attempts for SC/ST).

Petitioners after their admission have appeared for the I year Semester Examinations. However, subsequently they were informed by the fourth respondent college that their admission had been cancelled by the University on the ground that they had passed HSC examination in more than two attempts and were not eligible to be admitted as per the conditions prescribed in the prospectus.

3. Learned senior counsel appearing for the petitioners has submitted that cancellation of admission has been effected without affording any opportunity of being heard or even making any representation which is against the principles of natural justice and to be quashed. He has further submitted that the petitioners have passed HSC examination in two attempts, but they have subsequently appeared for improvement examination and therefore, it cannot be said that they had not passed HSC examination within two attempts.

4. A counter has been filed on behalf of the University wherein the contentions raised by the petitioners had been refuted.

5. In the information bulletin for the relevant year, that is to say, for the year 2000-2001, minimum qualification for admission to B. Tech degree Courses has been prescribed as follows :-

“II. Admission to I Year Professional Degree Courses
(A) Minimum qualification for admission
(1) Admission to B.Tech degree courses

(i) a. Candidates seeking admission to the first year of the 4 year (8 semester) B.Tech degree course should have a pass in the H.S.C. (Academic) examination conducted by the Board of Higher Secondary Examination of Tamil Nadu or any other equivalent examination thereto with a minimum of 50% marks in aggregate in the following subjects :

(a) Mathematics

(b) Physics
(c) Chemistry

OR

b. Candidates seeking admission to first year of 4 year (8 semester) B.Tech degree course, should have a pass in HSC examination (Vocational stream) in the area of engineering and Technology conducted by Board of Higher Secondary examination of Tamil Nadu with a minimum of 50% marks in aggregate in the following subjects (for residents of Union Territory of Pondicherry only) :

(a) Vocational subjects.
(b) Related subjects (Mathematics / Physics / Chemistry)

(ii) Number of attempts

Category Maximum number of
attempts for
Passing the Qualifying
Examination ----------

SC/ST 3

Others 2

Note: Every sitting will be considered as an attempt

(iii) Improvement Marks
Candidates may also seek admission with marks secured in the Improvement Examination if they are advantageous, provided it is the first Improvement Examination (Such candidates should enclose copies of all the statements of marks). First improvement means the improvement taken immediately after passing the Qualifying Examination. (Improvement marks secured in the subsequent appearances will not be considered.)

6. It is contended on behalf of the petitioners that they had passed the qualifying examination in the second attempt and after having passed, they have written their first improvement examination. It is further contended that “the improvement examination undergone by the petitioners 1 to 4 is not an attempt in the qualifying examination and it is only an improvement for securing hig h marks in the qualifying examinations. The 3rd Respondent has wrongly construed that the improvement examination written by the Petitioners is a third attempt”.

7. The third clause relating to improvement marks which has been extracted earlier makes it very clear that a candidate seeking admission on the basis of the marks secured in the improvement examination if

advantageous, provided it is the first Improvement examination. (emphasis added) Said clause also makes it further clear that improvement marks secured in the subsequent appearances will not be considered. It is evident that clauses (ii) and (iii) should be read together. It is apparent that it is the intention of the authorities to permit students on the basis of their improved mark-sheet. Such improvement examination can obviously be taken only after passing the qualifying examination. If it would be held that a person passes the qualifying examination not in his first attempt but in his second attempt and again seeks for improvement examination should not be considered as eligible, it would be evidently contrary to the conditions indicated in para (iii) of the Information bulletin. Therefore, the contention raised in the writ petition is to be accepted and the matter is to be reconsidered by the respondents in the light of the observation made above.

8. If it is found that the petitioners had passed the qualifying examination in their second attempt and thereafter taken the first improvement examination and were eligible on the basis of such first improvement examination, they would be allowed to continue their studies. On the other hand if it is found that they had passed the qualifying examination in the third attempt or were depending upon the improvement marks in the "second improvement examination", such persons cannot be allowed to continue.
9. For the aforesaid reasons, the writ petition is allowed subject to the observations made above. There will be no order as to costs. Consequently, WPMP.Nos. 33161,14714 of 2001 and WVMP.No.518 of 2002 are closed.

29.08.2002

Index : Yes
Internet : Yes
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To

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P.K. MISRA, J.

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